

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION

KIRK LABADIE,

Plaintiff,

Case No. 2:23-cv-11960

v.

Honorable Susan K. DeClercq  
United States District Judge

GERALD DANCY, et al,

Defendants.

Honorable Kimberly G. Altman  
United States Magistrate Judge

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**ORDER ADOPTING REPORT AND RECOMMENDATION (ECF No. 46)  
AND GRANTING DEFENDANT DR. ANGELA JOSEPH’S MOTION TO  
DISMISS (ECF No. 36)**

On November 7, 2024, Magistrate Judge Kimberly G. Altman issued a report and recommendation (R&R) addressing Defendant Dr. Angela Joseph’s motion to dismiss. ECF No. 46. But 10 days later, Defendant Joseph filed a notice of automatic bankruptcy stay because her employer, Wellpath LLC, had filed for Chapter 11 bankruptcy.<sup>1</sup> See ECF Nos. 47; 49. In May 2025, the automatic bankruptcy stay was lifted,<sup>2</sup> so the R&R is ripe for review.

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<sup>1</sup> In February 2025, Judge Altman extended the stay as to Defendant Joseph by a text-only order. That order stayed Plaintiff’s case against Defendant Joseph until the earlier of (1) the effective date of a confirmed Chapter 11 plan; (2) dismissal of the chapter 11 cases of the Debtors; or (3) April 30, 2025.

<sup>2</sup> A confirmed Chapter 11 plan became effective on May 9, 2025, lifting the automatic bankruptcy stay. See *In re Wellpath Holdings, Inc.*, No. 24-90533 (Bankr. S.D. Tex.), Docket Nos. 2680 (detailing entry of confirmation order and effective

Judge Altman provided 14 days to object to the R&R, but neither party did so. All parties have therefore forfeited their right to appeal Judge Altman's findings. *See Berkshire v. Dahl*, 928 F.3d 520, 530–31 (6th Cir. 2019) (citing *Thomas v. Arn*, 474 U.S. 140, 149 (1985)). Moreover, there is no prejudicial clear error in the report.

Accordingly, it is **ORDERED** that the Report and Recommendation, ECF No. 46, is **ADOPTED**.

Further, it is **ORDERED** that:

1. Defendant Joseph's Motion to Dismiss, ECF No. 36, is **GRANTED**; and
2. Defendant Joseph is **DISMISSED WITHOUT PREJUDICE** from this case for Plaintiff's failure to exhaust administrative remedies.

**This is not a final order and does not close the above-captioned case.**

/s/Susan K. DeClercq  
SUSAN K. DeCLERCQ  
United States District Judge

Dated: July 23, 2025 d

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date); 3306 (noting that the “automatic stay no longer remains in effect” and that “litigation may proceed against non-debtor defendants (including employees and customers of the Debtors”)).